IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-08-2006

CORAM :

THE HONOURABLE MR.JUSTICE A. KULASEKARAN

C.R.P. (NPD) No. 1130 of 2006

Jayaram Naidu .. Petitioner

Versus

1. Sugumar
2. Sreedharan .. Respondents

Revision filed under Article 227 of the Constitution of India against the Order dated 29.04.2005 made in unnumbered I.A. No. of 2005 in RCOP No. 36 of 1999 on the file of the Rent Controller (District Munsif) Court, Thiruthuraipoondi.

For Petitioner : Mr. J. Nandagopal

ORDER

This civil revision petition is listed today for admission and I heard the learned counsel for the petitioner.

2. The tenant is the revision petitioner, who has filed RCOP No. 36 of 1999 against the respondents herein under Section 9 (3) of the Tamil Nadu Buildings (Lease and Rent Control) Act before the Rent Controller, Thiruthuraipoondi on the ground that there is rival claim between the respondents herein over the ownership of the premises under his occupation and sought permission to deposit the rent into the Court. The Court below allowed the said RCOP No. 36 of 1999 on 30.04.2002 by directing the petitioner herein to deposit the rental arrears of 52 months as well as future rent into the Court. It is stated by the petitioner that as against the said order dated 30.04.2002, the second respondent herein has filed R.C.A. No. 2 of 2003 before the Sub-court, Thiruthuraipoondi, which was dismissed and thereafter the petitioner has filed belatedly lodgment schedule and an application without serving it to the respondents, hence the same was returned on 10.01.2005. Again, the said lodgment schedule and application was re-presented by the petitioner on 15.04.2005 with an unnumbered I.A. to condone the delay of 35 days in re-presenting the lodgment schedule. The said application was dismissed by the court below on 29.04.2005, hence, the present revision has been filed.

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3. Mr. Nandagopal, learned counsel appearing for the petitioner submits that due to the ill-health of the wife of the

petitioner and also the fact that the second respondent has filed an appeal in R.C.A. No. 2 of 2003, the petitioner could not deposit the rental arrears, however, after dismissal of R.C.A. No. 2 of 2003, the petitioner has filed lodgment schedule which was returned on 07.01.2005 for certain compliance and on 10.04.2005, the same was re-presented with an application to condone the delay of 35 days in re-presenting the lodgment schedule, but the court below, without considering the said valid reasons has passed the impugned order and prayed for setting aside the same.

4. It is seen from the records that RCOP No. 36 of 1999 under Section 9 (3) of the Rent Control Act was filed by the petitioner and the same was allowed on 30.04.2002 thereby the petitioner was directed to deposit a sum of Rs.10,400/- as on that date representing rental arrears for the 52 months from June 1995 to September 1999 and also future rent into Court. According to the petitioner, due to the ill health of his wife, he was unable to deposit the rent into Court, besides, the second respondent has filed an appeal in R.C.A. No. 2 of 2003 against the said order dated 30.04.2002. In so far as the averment of ill health of the petitioner's wife is concerned, the court below found that the petitioner has not produced any medical certificate to substantiate the said averment and rightly rejected it. The other averment that the petitioner could not deposit the rent in time as the second respondent has filed RCA No. 2 of 2003 is concerned, the court below found that the said RCA No.2 of 2003 was dismissed for default as early as 31.10.2003 and the petitioner has filed the lodgment schedule only on 07.01.2005, the delay between the period of dismissal of RCA and filing of lodgment schedule not explained by petitioner. It is also pointed out by the court below that the petitioner has re-presented the lodgment schedule for Rs.200/- representing rent for the month of March 2005 ignoring the rent for the period from June 1995 to February 2005 for a period of 117 months.

5. Assuming the Rent Controller not stipulated any period for deposit, the petitioner is expected to deposit the rent within a reasonable time. Admittedly, there was no interim order granted by the Appellate Court restraining the petitioner from depositing the rent into the Court. The petitioner has belatedly submitted lodgment schedule to deposit Rs.200/- representing rent for the month of March 2005 alone though he is liable to deposit rent for the period from June 1995 to February 2005. The said lodgment schedule was filed without serving it to other side, hence, the same was returned, thereafter, the petitioner has filed the unnumbered interloctuary application to condone the delay of 35 days in re-presenting the said lodgment schedule which was rightly dismissed by the court below stating that the petitioner has not only delayed in depositing the rent ordered, but sought to deposit only one month rent instead of rent for a period of 117 months, which amounts to non-compliance of the order dated 30.04.2002, besides the said act cause hardship to the respondents/landlord and not at all bonafide. Any application filed seeking a remedy, which ultimately violate the earlier order passed cannot be entertained. The court below has rightly considered the above said aspects and dismissed the application filed by the petitioner for condonation

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of 35 days delay in re-presenting the lodgment schedule. The reasons assigned by the Court below is perfectly valid, hence, interference of this Court is not warranted.

6. In the result, the civil revision petition is dismissed at the stage of admission itself. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

rsh

To

The District Munsif
The Rent Controller
Thiruthuraipoondi

1 cc to Mr.J. Nandagopal, Advcoate, Sr. 34768

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